Decisions of Vital Importance Handed Down by Supreme Court

COU'T SETS THEIR SENTENCE ASIDE

(Continued From First Page.)

tion. This publication, the company contended, constituted a boycott.

The Supreme Court of the District of Columbia, after a hearing, granted a temporary injunction on January 18, 1907, making it permanent three months later. The court's order prohibited the defendants from attacking the manufacturing company in the publication or other unlawful ways.

Shortly after the order was entered the manufacturing company appeared in court, charging contempt against the three labor officials. They were found guilty and sentenced, Gompers to twelve months in jail, Mitchell to nine months, and Morrison to six months. The sentences were appealed to the District Court of Appeals, without avail, and the matter then was laid before the Supreme Court.

Differences Settled.

Before the Supreme Court had opportunity to hear the testimony, the Bucks Stove and Range Company had settled all its differences with the defendants, and all that remained for the court of last resort to do was to rule in the contempt feature of the long-fought litigation.

Justice Lamar devoted considerable space to a technical discussion of civil as differentiated from criminal contempt. In the former only a fine was permissible, he pointed out, while in criminal contempt jail sentences could be imposed. The case under consideration, he said, had been brought by a corporation in conjunction with a suit in equity, and a fine, to be paid to the corporation, alone, could be imposed. Had the court, whose injunction had been disobeyed, felt aggrieved, it could have brought criminal contempt proceedings in the premises and have inflicted a jail sentence. It did not do this, however, and the opinion held that it erred in imposing in a civil contempt case a penalty applicable only to litigation involving criminal contempt. The opinion, in conclusion, reads:

"The judgments of the Court of Appeals and the Supreme Court of the District are revoked and the case remanded, with direction that the contempt proceedings instituted by the Buck's Stove and Range Company be dismissed, but without prejudice to the power and right of the Supreme Court of the District of Columbia to punish by a proper proceeding of contempt, if any, committed against it."

Action Unlikely.

In view of the fact that the original cause of the long drawn out litigation has been adjudicated out of court, it is considered unlikely that the District Supreme Court will take advantage of the Supreme Court's decision to reopen proceedings against the three labor leaders.

History of Case.

The charges of contempt against President Gompers, Vice-President Mitchell and Secretary Morrison arose out of a bitter labor war between organized labor and the Bucks Stove and Range Company, of St. Louis, Mo.

The St. Louis concern had come into the Supreme Court of the District of Columbia to prevent, by injunction, the American Federation of Labor and its officials from boycotting its own products or the business of those who dealt with it. The questions involved and the parties concerned attracted wide-spread attention. The company claimed that the federation was trying to unionize the company's shops. The labor leaders urged that the company was "unfair" to labor. The head of the company was J. W. Van Cleave, president of the National Manufacturers' Association, which had often come into conflict with the federation. He was charged with having been opposed to organized labor and with having sought to put his nickel-plate workers on a ten-hour instead of a nine-hour basis.

Justice Gould, of the District Supreme Court, issued the injunction prayed for by the company. An appeal was taken to the Court of Appeals of the District of Columbia, but before that court could pass upon the validity of the injunction, the Bucks Stove and Range Company again came into the District Supreme Court, this time with charges of contempt against President Gompers, Vice-President Mitchell and Secretary Morrison. These men were accused of having violated the injunction decree.

Sentenced to Jail.

Justice Wright found them guilty and sentenced President Gompers to one year in jail, Vice-President Mitchell to nine months, and Secretary Morrison to six months. An appeal was taken from this sentence, first to the Court of Appeals, which affirmed it, and finally to the Supreme Court of the United States.

The alleged violations consisted of utterances and acts in furtherance of the boycott. It was charged that Mr Gompers had rushed out the January number of the American Federationist, the official organ of the American Federation of Labor, so as to evade the decree, which went into effect the day after most of the magazines were out of his hands. This magazine contained the name of the company on the "We Don't Patronize" or "Unfair" list. It was also alleged that a number of copies of this magazine were sent out after the decree became effective. In defense, testimony was presented to show that only thirty-odd copies were mailed to libraries and other similar institutions. The complainant claimed that about 100 were sent out.

It was further charged that in the succeeding number of the Federationist, Gompers, Mitchell and Morrison joined in an appeal to organized labor for funds to carry the injunction case to the higher court. It was contended that this appeal was used as a vehicle to continue the boycott. The charges stated that the appeal referred to an editorial in the same number of the magazine as setting forth the attitude of those making the appeal. This editorial was attributed to Mr Gompers.

Gompers's Offense.

"Individuals as members of organized labor," this publication said, "will still exercise the right to buy or not to buy the Buck's stove and ranges. It is an exemplification of the saying that 'you can lead a horse to water, but you can't make him drink.'"

Another charge was that in the March Federationist Mr. Gompers published an editorial, in which it was said: "It should be borne in mind that there is no law, aye, not even a court decision, compelling union men or their friends of labor to buy a Buck's stove or range. No; not even to buy a Leewe hat."

In a public address in New York in April, 1908, Mr. Gompers said, it was charged: "Of course, in the case of the Buck's Stove and Range Company, if I tell you that the Buck's Stove and Range Company was still unfair, when I get back to Washington to-morrow or some place where they say people play checkers with their noses—well, as I say, I am not prepared to tell you that these things are unfair. But there is no law, no court decision, that compels you to buy them, nor does any law compel you to buy anything without the union label."

From another address by Mr. Gompers in Chicago in May, 1908, was taken language alleged to have been in violation of the injunction.

In addition to the "urgent appeal," in which Mr. Mitchell joined, he was accused of having acted in contempt by presiding over the United Mine Workers' convention when it adopted a resolution to fine any member who bought a Buck's stove.

In addition to the "urgent appeal" charge against Mr. Morrison, he was also accused of having mailed out the magazines objected to.

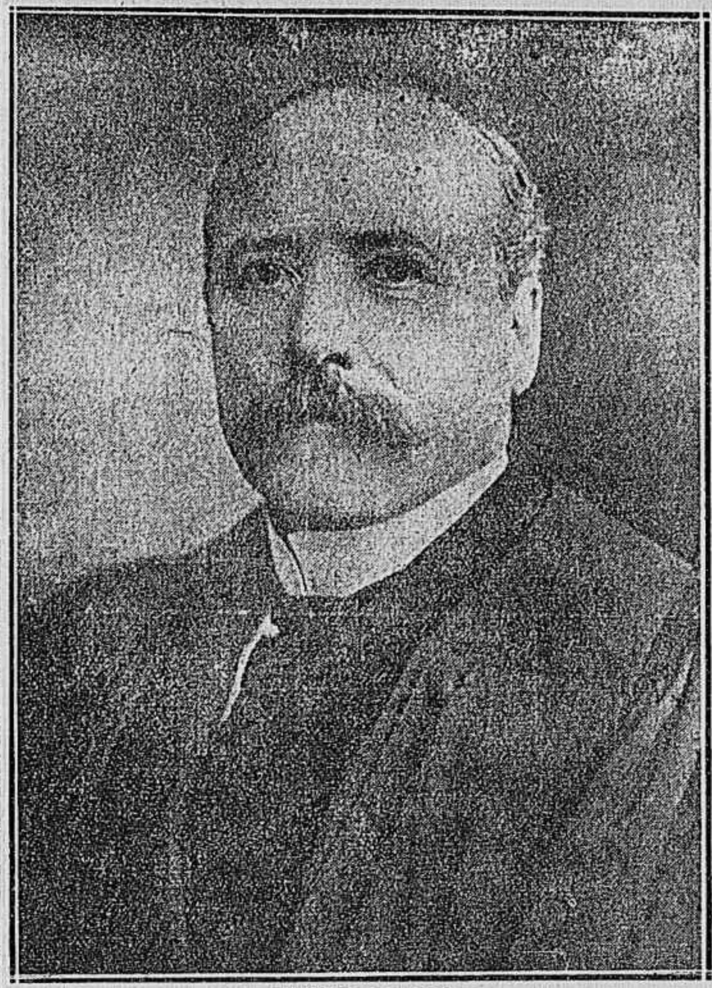
Defended by Parker.

Distinguished counsel appeared on both sides when the case was argued before the Supreme Court. Prominent among these was Judge Alton B. Parker, former presidential candidate, who had been retained to defend the labor leaders. His principal argument was that the injunction was an improper interference with the constitutional right of free speech and a free press. He further contended that the injunction decree was void, at least in parts, and that his clients could not be held under the statutes for violating a void decree.

Mitchell Is Pleased.

Philadelphia, Pa., May 15.—"Well, I am glad to hear it," said John Mitchell, when he stepped from a Pennsylvania train here this afternoon and was told that the Supreme Court had decided in favor of the defendants. Mr. Mitchell was en route for Lancaster, Pa., where he addressed a public meeting to-night on the philosophy, purposes and ideals of the trade union movement.

"I am, of course, pleased," said he "to learn that the decision has vindicated the contention of Messrs. Gompers, Morrison and myself and that the decisions of the lower courts have been reversed. Aside from the satisfaction of being vindicated and the happiness it brings to my family, I am gratified because it justifies the confidence given to us by a multitude of citizens, both in and outside of the organized labor movement."



ALTON B. PARKER,
One of the attorneys who defended labor leaders.

Judge Who Sentenced Labor Leaders

DANIEL THEW WRIGHT.

Not a Word From Standard Oil Co.

New York, May 15.—On the steps of the Standard Oil building, at 26 Broadway, there stood a newsboy this afternoon, crying "Standard Oil loses!" Inside not an officer of the company would speak.

William Rockefeller seldom talks, and did not break his rule. John D. Archbold is ill at his home in Tarrytown. Mortimer F. Elliot, solicitor-general for the company, said that he would have nothing to say until he had read the full text of the decision, not available here to-night.

RAILROADS MUST COMPLY WITH ACT

(Continued From First Page.)

continuous transportation or shipment with the preceding carrier. The courts had always held that such had been necessary to bring a carrier within the interstate commerce act of 1887.

The United States District Court for Northern Alabama went even a step further. It held that the United States was entitled to a penalty from the Southern Railway Company for an alleged violation of the safety appliance law in a case where a shipment originating and ending within the State of Alabama, was carried in a car not properly equipped. The court held that this was a violation of the law because the car was used sometimes for interstate commerce, and, therefore, was an instrumentality of interstate commerce.

ALL VACCINATED

Not Until Then Is Vessel Permitted to Enter Port.

Philadelphia, May 15.—Sixty passengers were landed at the government quarantine station at Reedy Island, Delaware, fifty miles below this city, to-day, from the American liner Merion, Liverpool and Queenstown for Philadelphia, because of the discovery of a suspicious case of sickness in the steerage. Smallpox was suspected by the government physicians, and the sick passenger and fifty-nine others who had come in contact with him were placed on shore for "observation," but later the doctors satisfied themselves that the patient, a child, was merely suffering from chickenpox. After every one on board the Meriod had been vaccinated the big liner was allowed to come to port.

The quarantine physicians at the entrance to this port are keeping a close watch for smallpox among steerage passengers of incoming vessels, and the Meriod is the second vessel this week to be held up and suspected cases taken off.

THE WEATHER

Forecast: For Virginia—Generally fair, without much change in temperature, Tuesday and Wednesday; light, variable winds, mostly west.

For North Carolina—Unsettled Tuesday; Wednesday fair; moderate east winds.

CONDITIONS YESTERDAY.

Monday midnight temperature	68
8 A. M. temperature	56
Humidity	78
Wind, direction	N. E.
Wind, velocity	4
Weather	Clear
12 noon temperature	75
3 P. M. temperature	78
Maximum temperature up to 8 P. M.	86
Minimum temperature up to 8 P. M.	56
Mean temperature	66
Normal temperature	67
Deficiency in temperature	3
Deficiency in temperature since March 1	221
Accum. deficiency in temperature since January 1	70
Deficiency in rainfall since March 1	2.58
Accum. deficiency in rainfall since January 1	2.68

CONDITIONS IN IMPORTANT CITIES
(At 8 P. M. Eastern Standard Time.)

Place.	Ther.	H.	Weather.
Abilene	80	82	Cloudy
Asheville	72	78	Clear
Augusta	78	84	Clear
Atlanta	74	78	Cloudy
Atlantic City	54	58	Clear
Boston	60	72	Cloudy
Buffalo	60	66	Cloudy
Charleston	70	76	Rain
Chicago	70	78	Cloudy
Calgary	60	64	P. cloudy
Denver	76	80	Clear
Duluth	46	54	Rain
Galveston	76	80	Clear
Huron	82	86	Clear
Havre	76	78	Cloudy
Jacksonville	72	78	P. cloudy
Kansas City	86	90	P. cloudy
Knoxville	78	84	Clear
Louisville	78	80	P. cloudy
Memphis	84	88	Clear
Mobile	78	80	Clear
Montreal	60	66	Rain
Norfolk	60	74	Clear
North Platte	82	86	P. cloudy
Pittsburg	76	82	Clear
Raleigh	76	80	P. cloudy
Savannah	68	72	Cloudy
San Francisco	60	66	Cloudy
Spokane	60	62	Cloudy
St. Paul	68	72	P. cloudy
Tampa	78	84	P. cloudy
Washington	72	78	P. cloudy
Wilmington	68	74	Clear
Wytheville	68	78	Clear

MINIATURE ALMANAC.
May 16, 1911.

Sun rises	5:02
Sun sets	7:11

STANDARD OIL LOSES ITS CASE

(Continued From First Page.)

United States at the time of its adoption, the contentions of the parties concerning the act and the scope and effect of the decisions of the Supreme Court, the application of the statute to the facts, and lastly the remedy.

But Two Subjects.

In striving to get at the meaning of the two sections of the law, he said that the sole subject with which the first section dealt was "restraint of trade," and that the attempt to monopolize, and monopolize alone, was the subject of the second section. The Chief Justice said that in getting at the meaning of these words he would be guided by the principle that where words are employed in a statute, which at the time had a well known meaning in common law or in the law of this country, they were presumed to have been used in this sense unless the content conveys to the contrary. The Chief Justice considered the contention of the parties as to the meaning of the statute. He said in substance that the propositions of the government were reducible to the claim that the language of the statute embraced "every contract, combination, etc., in restraint of trade," and left no room for the exercise of judgment, but simply imposed the plain duty of applying its prohibitions to every case within its literal language. The error of the government on this point, Chief Justice White said, was in assuming that the decisions of the court had decided in accordance with its contentions.

"This is true," said the Chief Justice, "because, as the acts which may come under the classes stated in the first section and the restraint of trade to which that section applies, are not specifically enumerated or defined, it is obvious that judgment must in every case be called into play in order to determine what particular act is embraced within the statutory classes, and whether, if the act is within such classes, its nature or effect causes, it to be a restraint of trade within the intendment of the act.

Chief Justice White touched upon the phase of the case which formed the basis for Justice Harlan's dissenting opinion. It was that the opinion of the Supreme Court in the cases of the United States vs. Freight Association, and United States vs. Joint Traffic Association, included the right to reason that in interpreting the statute. Chief Justice White declared that the general language of these opinions had been subsequently explained and held not to justify the broad significance attributed to them.

Takes Up the Facts.

The Chief Justice next took up the facts and the application of the statute to them. As a matter of fact the court found that the result of enlarging the capital stock of the Standard Oil Company, of New Jersey, and the acquisition by that company of the shares of the stock of the other corporations in exchange for its certificates, gave to the corporation an enlarged and more perfect sway, and not to keep the trade and commerce in control of its products. The effects of this, Chief Justice White said, the lower court held, was to destroy "the potentiality of competition," which otherwise would have existed to such an extent as to be a combination or conspiracy in restraint of trade in violation of the first section of the act and also be an attempt to monopolize and a monopolization and bring about a perennial violation of the second section.

"We see no cause to doubt the correctness of these conclusions," said the Chief Justice, "considering the subject from every aspect, that is, both in view of the facts established by the record and the necessary operation and effect of the law as we have construed it upon the inference deducible from the facts.

Cutting Remark.

In scrutinizing the acts and doings of the Standard Oil in the past for the purpose of getting assistance in discovering intent and purpose, Chief Justice White left a cutting remark:

"We think no disinterested mind can survey the period in question without being constantly arriving at the conclusion that the very genius of the development and organization which it would seem was manifested from the beginning, soon begot an intent and purpose to exclude others, which was frequently manifested by acts and dealings wholly inconsistent with the theory that they were made with the single object of advancing the development of business power by unusual methods, but which, on the contrary, necessarily involved the intent to drive others from the field and to exclude them from their right to trade and thus accomplish the mastery, which was the end in view. And, considering the period from the date of the trust agreements of 1879 and 1882 up to the time of the expansion of the New Jersey corporation, the gradual extension of the power over the commerce in oil which ensued, the decision of the Supreme Court of Ohio, the tardiness or reluctance in conforming to the commands of that decision, the method first adopted and that which finally culminated in the plan of the New Jersey corporation, all additionally serve to make manifest the continued existence of the intent which we have previously indicated, and which, among other things, impelled the expansion of the New Jersey corporation."

Finally, the Chief Justice came to apply the remedy.

Further Relief Needed.

He said that ordinarily where violations of the act were found to have been committed it would suffice to enjoin further violations. In a case, however, where a monopolization or attempt to monopolize was established or the existence of a combination is proven, the continuance of which was a perennial violation of the statute, further relief was called for.

The lower court, he pointed out, had, first, enjoined the combination and in effect directed its dissolution; second, forbidden the New Jersey corporation from exercising any control by virtue of its stock ownership of the subsidiary corporations and enjoined those corporations from recognizing in any manner the authority or power of the New Jersey corporation by virtue of such ownership; third, enjoined in the sixth section of the decree the subsidiary corporations, after the dissolution, from doing any act which could create a like illegal combination; fourth, enjoined the New Jersey corporation and all the subsidiary corporations from doing business in interstate commerce pending the dissolution of the combination by the accomplishment of the transfer of stocks which the decree in its essence required, and fifth, gave thirty days to carry out the directions of the court.

The court said this decree was right and should be affirmed, except as to what it termed "minor matters." One of these was the extension of the time in which the decree should be put into effect from one month to six months. The other modification was more important, and had to do with the sixth section of the decree, which forbade the formation by the subsidiary corporations or their stockholders of like combinations.

Compelling Obedience.

"We construe the sixth paragraph of the decree," said the Chief Justice, "not as depriving the stockholder or corporation of the right to live under the law of the land, but as compelling obedience to that law."

He said it did not follow because an illegal restraint of trade or an attempt to monopolize or a monopolization resulted from the combination of the corporations in the New Jersey corporation; that a like restraint or attempt to monopolize or monopolization would necessarily arise from agreements between one or more of the subsidiary corporations after the transfer of the stock by the New Jersey corporation.

"For illustration," said he, "take the pipe lines. By the effect of the transfer of the stock the pipe lines would come under the control of various corporations instead of being subjected to a uniform control. If various corporations owning the lines determined in the public interests to so combine as to make a continuous line, such agreement or combination would not be repugnant to the act, and yet it might be restrained by the decree. As another example, take the Union Tank Line Company, one of the subsidiary corporations, the owner practically of all the tank cars in use by the combination. If no possibility existed of agreements for the distribution of these cars among the subsidiary corporations, the most serious detriment to the public interest might result."

History of Litigation.

The suit which called forth to-day's decision was instituted in 1906 in the United States Circuit Court for the Eastern District of Missouri. It was brought in the name of the United States. The immediate object was to dissolve the Standard Oil Company, of New Jersey.

From the very beginning, the business and the legal worlds recognized that the suit put the Sherman anti-trust law to the most severe test to which it had been subjected. The law had been on the statute book since 1890, and had been the basis of some eighteen suits finally passed upon by the Supreme Court of the United States. That the law was constitutional was accepted as settled by these decisions, but simple as the words of the statute seemed, there was an absence of unanimity in regard to its interpretation. With that situation confronting the government and the defendants, the suit was begun with the general belief that the entire business world would feel the effect of the outcome of the gigantic struggle.

Two Sections Violated.

The government claimed that two sections of the Sherman anti-trust law had been violated. The first section reads as follows:

"Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal."

The second section reads:

"Every person (which subsequently was explained in the statute to include corporations) who shall monopolize, or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanor."

The Standard Oil Company, of New Jersey, some seventy subsidiary corporations, John D. Rockefeller, William Rockefeller, Henry M. Flagler, Henry H. Rogers, John D. Archbold, Oliver H. Payne and Charles M. Pratt, all defendants in the suit, denied the charges.

Months were spent in gathering evidence. The general line of attack as shown by evidence presented by the government was this: It claimed that about 1870 the Rockefellers and Flagler conceived the idea of controlling the petroleum trade of the country, and a little later entered into a conspiracy with Rogers, Archbold, Payne and Pratt to gain a control of the oil business. To carry out this alleged conspiracy, it was claimed they first "pooled" their interests, then put them into the hands of trustees or "trusts," and finally when the trust of 1882 was declared "void" in a decision by the Ohio Supreme Court in a proceeding against the Standard Oil Company, of Ohio, reorganized the Standard Oil Company, of New Jersey, to take over their interests and to secure monopoly. Evidence of rebating, of price cutting and of the organization of secret concerns to pose as independents was elicited to show that the Standard was seeking by unfair means to restrain trade and to procure a monopoly.

ATTORNEY-GENERAL GEORGE W. WICKERSHAM.

Washington, May 15.—Commenting upon the Standard Oil decision to-night, Attorney-General Wickersham said that the court unanimously affirmed the decree rendered by the Circuit Court in favor of the government in every particular, save that it gives the defendants six months instead of thirty days' time in which to comply with the decree.

"Substantially every proposition contended for by the government in this case is affirmed by the Supreme Court," said the Attorney-General, in a statement issued by the department.

Denies Conspiracy Charge.

"Standard Oil" introduced evidence to show that there had never been such a conspiracy. It sought to prove that the Ohio Supreme Court did not hold the trust agreement of 1882 void, but merely required the Standard Oil Company, of Ohio to withdraw from the "trust."

Evidence was produced to show that rebating had been the order of the day among all commercial concerns; that price cutting and secret concerns were not the rule and were used as legitimate instruments of competition.

The Circuit Court held that the reorganization of the Standard Oil Company of New Jersey in 1899 was not only a violation of the first section of the act, which referred to restraints of trade, but also of the second section, which applied to monopolizing. The Standard Oil had argued that there could be no additional restraint as a result of the reorganization because the Standard Oil Company of New Jersey was owned by a common body of owners in exactly the same proportion that all the subsidiary companies taken over by this new organization had been held by these same common owners for years past. The court held otherwise, and said that the combination in a single corporation or person, by an exchange of stock, of the power of many stockholders holding the same proportion, respectively, of the majority of the stock of each of several corporations engaged in commerce in the same articles among the States, or with foreign nations, to restrict competition therein, rendered the power thus vested in the corporation or person greater, more easily exercised, more durable and more effective than that previously held by the stockholders. In these effects, the court found a restraint on commerce.

Court Evolves Plan.

The court then proceeded to evolve a plan to remedy the situation. It entered a decree enjoining the Standard Oil Company of New Jersey from exercising any control, by reason of its stock ownership, over the subsidiary companies. Furthermore, it enjoined these subsidiary companies from paying any dividends to the Standard Oil Company of New Jersey.

It put a provision in the decree to enjoin any possible evasion of the decree by the organization of a similar combination or of the conveyance of the property to one of the defendants. Unless the defendants should sever the relations and cease the combination within thirty days, they were to be enjoined from engaging in interstate commerce until they did cease the combination.

From the Circuit Court the case was brought to the Supreme Court of the United States. The record laid before the higher tribunal probably was the largest ever prepared in an American case. The petition, pleadings, testimony, opinions and decree constituted twenty-two large volumes, or more than 500 pages each.

The case was first argued before the Supreme Court in March, 1910, but it was restored to the docket for reargument. The case was heard the second time in January, 1911, the latter time before a full bench. Noted attorneys appeared on either side. For the government, Attorney-General Wickersham and Frank B. Kellogg, special assistant to the Attorney-General, addressed the court. For the Standard Oil, there appeared John G. Johnson, of Philadelphia; John G. Milburn, of New York, and D. T. Watson, of Pittsburg.

Not Natural Growth.

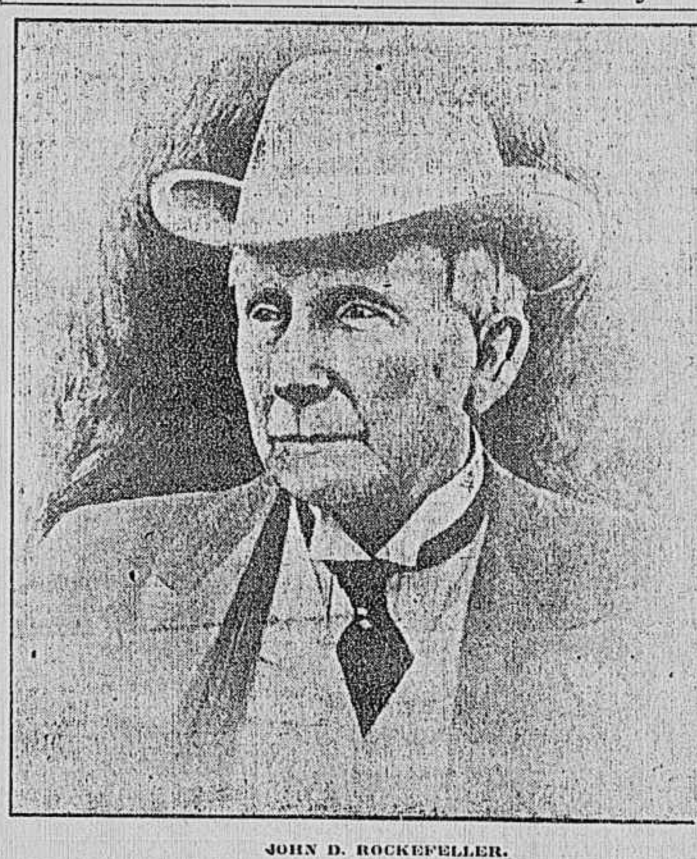
In his address to the court, Mr. Kellogg, who took all the testimony in the case on behalf of the government, said that the Standard Oil organization was not a natural growth, but was born and reared in fraud and oppression, and "hangs over the commerce of this country to-day like a threatening cloud."

The Standard Oil Company of New Jersey, he told the court, controlled from 85 to 97 per cent. of the oil business of the country, with a financial power beyond that possessed by any other combination ever known. The combination, he added, was "made effective and powerful by reason of preferential rates and rebates in transportation, the greatest ever known to have been made and by unfair and brutal methods of competition, which in and of themselves between merchants and corner-grocery men would not be dangerous, but in the hands of a combination of this size and of this power, are the most dangerous instruments to independent dealers, manufacturers and men engaging in enterprise known in commerce."

The other side of the contest was summarized by John G. Johnson, in the closing argument in the case. He declared that the country did not suffer by the mere largeness of the corporation, but profited. For the alleged sins that the corporation had committed, he argued, there existed an adequate remedy at law, and therefore it was not necessary for equity to step in to dissolve the corporation. He denied that rebates were being accepted by the corporation now, or that it was cutting prices or organizing secret concerns, and characterized the government's references to them in the past as necessary to "give the proper color and raise the proper amount of indignation" in the case. He declared that the Standard Oil organization was the result of orderly growth.

"Let the channels of commerce be open for all who may desire to enter," said he, in closing, "whether with ocean steamer or with dugout, with Rockefeller wealth or with naught but their brains and their hands, unfettered by their own improper restraints, and uninterfered with by the abuses of others, and all will have been done that is wise. Beyond that lies the antagonism of irresistible economic necessity, and danger of disaster, the length and the breadth of which no man can foretell."

Founder of Standard Oil Company



JOHN D. ROCKEFELLER.

Complete Victory for the Government

Washington, D. C., May 15.—"It is a complete victory for the government," said Frank B. Kellogg, who, as special counsel for the government, assisted in the prosecution of the Standard Oil case, to-night. "I have read the opinion, hastily, of course, but have seen enough to know that the government is sustained by the court on every point contended for."